

**REMARKS**

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

Claims 42, 43, 45, 46, 49, 51, 52, 54, 56, 58, 59, 63-68, 73-75, and 77-82 are currently amended. Claims 1-41 were previously cancelled without prejudice or disclaimer. No claims have been added. Claims 42-46, 49-53, 56, 58, 59, 63-66, 73, and 77-82 are pending and submitted for reconsideration.

**Rejection under 35 U.S.C. 112**

Claim 42 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Claim 42 has been amended as appropriate. Reconsideration and withdrawal of the rejection is respectfully requested.

**Rejection under 35 U.S.C. 102(b)**

Claims 42-46, 49-53, 56, 58, 59, 63-66, 73, and 77-82 are rejected as being anticipated by U.S. Patent No. 6,364,402 (hereinafter "Sasaki"). Applicants believe claim 42, as amended, is in condition for allowance, and further that the remaining dependent claims are also in condition for allowance for the reasons that follow.

**Claim 42**

Claim 42 recites an automotive safety apparatus for protecting a person located outside an automobile from an impact with a part of external paneling of the automobile that comprises, among other things:

wherein after the device has deflected the part of the external paneling, the device is configured to oppose and control movement of the part of the external paneling in a second direction counter to the first deflecting direction, and wherein the device is configured to control movement of the part of the external paneling in the second direction counter to the

first deflecting direction based upon either the time of impact with the person, the location of impact with the person, or the direction of impact with the person.

While Sasaki discloses a device configured to deflect the hood of an automobile in a first deflecting direction, Sasaki does not disclose, teach or suggest controlled movement of the hood of an automobile in a second direction counter to the first deflecting direction. Rather, Sasaki only describes a device capable of absorbing impact and forming a recessed portion. Therefore, Sasaki does not disclose, teach or suggest an automotive safety apparatus wherein “after the device has deflected the part of the external paneling, the device is configured to oppose and control movement of the part of the external paneling in a second direction counter to the first deflecting direction, and wherein the device is configured to control movement of the part of the external paneling in the second direction counter to the first deflecting direction based upon either the time of impact with the person, the location of impact with the person, or the direction of impact with the person.” Therefore, Sasaki cannot anticipate claim 42 and the rejection should be withdrawn. Reconsideration and withdrawal of the rejection is respectfully requested.

#### Dependent Claims

Claims 43-46, 49-53, 56, 58, 59, 63-66, 73, and 77-82 depend from amended claim 42 and are allowable therewith, for at least the reasons set forth above, without regard to the further patentable subject matter set forth in these dependent claims. For example, dependent claim 43 calls for an automotive safety apparatus wherein “the device permits a movement of the part of the external paneling in the second direction counter to the first deflecting direction only a predetermined time period after the initial deflection of the part of the external paneling in the first deflecting direction,” which is not taught or suggested by Sasaki. Reconsideration and withdrawal of the rejection of the dependent claims is respectfully requested.

#### Conclusion

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application, as amended, is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorize payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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By



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